

Application No. 10/047,987  
Attorney Docket No. 05725.1020

### **REMARKS**

Claims 151-173 are pending. Further to the telephone interview between the Examiner and the undersigned on March 24, 2005, in which most of the above amendments were agreed upon in order to put this application in condition for allowance, please cancel claims 148-150 and amend claims 151-173 as above. As Applicant believes that the subject matter presented in the Submission Under 37 C.F.R. §1.114 filed January 7, 2005 ("January 7 Submission"), and canceled herein, is patentable, Applicant expressly reserves the right to pursue that subject matter in a continuation application.

In addition to the amendments set forth above which were agreed upon, Applicant has amended claim 156 to recite that Z is chosen from O, S, or NR, R being hydrogen, a radical  $-(CH_2)_n-CH_3$ , wherein n is defined as above, or  $-(CF_2)_m-CF_3$ , wherein m ranges from 2 to 5, merely to reconcile the claim language with the language at page 21, lines 1-3, of the specification. Accordingly, no new matter has been added.

Finally, Applicant has amended claim 165, without intending to limit the scope of the claim, to recite that the at least one liquid fatty phase further comprises one additional oil, said additional oil being chosen from non-volatile oils, merely to make this claim more clear. Accordingly, this amendment does not introduce new matter.

In the January 7 Submission, Applicant pointed out that U.S. Patent No. 6,749,173 to Arnaud et al. ("the '173 patent"), U.S. Patent No. 6,224,851 to Bara ("the '851 patent"), and U.S. Patent No. 6,203,780 to Arnaud et al. ("the '780 patent") were all filed before the present application's priority filing date of January 17, 2001, but issued after that date. Applicant also noted that these three patents were, at the time the

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presently claimed invention was made, assigned to or subject to an assignment to L'Oréal. As L'Oréal is also the assignee of the present application, none of these patents are available as prior art against the present application under 35 U.S.C. §103(c). Applicant now further notes that U.S. Patent No. 6,399,080 to Bara ("the '080 patent") was also filed before the priority date of this application, but issued after that date, and is also assigned to or was subject to an assignment to L'Oréal at the time the present invention was made. Therefore, the '080 patent is also not available as prior art under 35 U.S.C. §103(c).

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration of this application and the timely allowance of the pending claims.

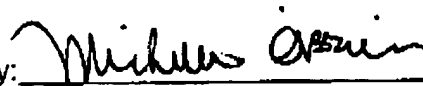
As the January 7 Submission was timely filed, Applicant does not believe that any extension of time is necessary. However, should an extension of time be required to enter this paper, please grant the extension and charge any required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: March 25, 2005

By:



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